

NEWS RELEASE

Luther Strange

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FOR IMMEDIATE RELEASE

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AG ANNOUNCES INVALIDATION OF EPA RULE REGARDING AIR EMISSIONS ACROSS STATES

(MONTGOMERY) – Attorney General Luther Strange said he is pleased by a federal court ruling today that struck down what he called “an intrusive and overreaching” rule of the Environmental Protection Agency regarding air emissions across states.

The U.S. Court of Appeals for the District of Columbia invalidated the EPA’s Cross State Air Pollution Rule (CSAPR), ruling in the case of EME Homer City Generation L.P. v. EPA. Attorney General Strange joined with Texas Attorney General Greg Abbott and 13 other states challenging the rule.

“This ruling upholds major principles of fair play,” said Attorney General Strange. “A state must have the opportunity to propose its own plan to control air emissions before the EPA forces a federal government plan upon the state. EPA’s actions in this respect have represented a departure from the longstanding principle of cooperative federalism. I am pleased that the court today struck down this intrusive and overreaching rule.”

The court found that the rule impermissibly imposed unwarranted requirements for emission reductions on sources within “upwind” states that were believed by the EPA to contribute to non-attainment of required limits on emission levels in “downwind” states. Furthermore, to the extent that CSAPR required the states to reduce their emissions by an amount greater than their own significant contribution to a downwind state’s non-attainment, the court held that EPA exceeded its statutory authority under the Clean Air Act.

The court also held that EPA itself violated the Clean Air Act by imposing Federal Implementation Plans (FIPs) on the states to achieve required emission reductions under CSAPR, without first allowing the states opportunity to submit to EPA their own State Implementation Plans (SIPs).

With its vacation of CSAPR, the court ordered EPA to continue to implement the Clean Air Interstate Rule (CAIR) pending promulgation of a valid replacement.

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